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Exempt from fees per Gov't code 6103
To the benefit of the City of San Diego

Attorneys for Defendant City of San Diego

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

TRACY MEANS,

Plaintiff,

v.

CITY OF SAN DIEGO, a municipal corporation
and a Political Subdivision of the State of
California, and DOES 1-30, inclusive,

Defendant.

Case No. 08cv0580 WQH (POR)

**DEFENDANT'S NOTICE OF MOTION
AND MOTION TO DISMISS
PLAINTIFF'S FIRST AMENDED
COMPLAINT PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 12(b), AND IN THE
ALTERNATIVE, MOTION FOR A
MORE DEFINITE STATEMENT
PURSUANT TO FEDERAL RULE OF
CIVIL PROCEDURE 12(e) AND
MOTION TO STRIKE PORTIONS OF
THE COMPLAINT PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 12(f)**

**NO ORAL ARGUMENT UNLESS
REQUESTED BY COURT**

Judge: Hon. William Q. Hayes
Courtroom: 4
Date: May 12, 2008
Time: 11:00 a.m.

Magistrate: Hon. Louisa S. Porter

**TO PLAINTIFF TRACY MEANS AND HER ATTORNEYS OF RECORD,
PLEASE TAKE NOTICE:**

On May 12, 2008, at 11:00 a.m., or as soon as the matter may be heard before the
Honorable William Q. Hayes, in Courtroom 4, located at 940 Front Street, Fourth Floor, San

1 Diego, California, Defendant City of San Diego, through Senior Deputy City Attorney Joe
2 Cordileone, will move the Court for an Order dismissing the Plaintiff's First Amended
3 Complaint in the above-captioned action, with prejudice, or as the Court deems appropriate,
4 and alternatively for an order that Plaintiff provide a more definite statement, pursuant to
5 Federal Rules of Civil Procedure 12(b) and (e), and for an order that strikes portions of
6 Plaintiff's First Amended Complaint, pursuant to Federal Rules of Civil Procedure 12(f).

7 More specifically, Defendant will ask this Court for:

- 8 1. Dismissal of the First Amended Complaint and each of its counts for failure to
9 state a claim upon which relief can be granted; and alternatively,
- 10 2. An order that Plaintiff amend the complaint to make a more definite statement;
11 and,
- 12 3. An order striking certain portions of the First Amended Complaint for
13 containing, redundant, immaterial, impertinent, and scandalous matter.

14 The motion is based upon the accompanying points and authorities, the records on file
15 herein, the request for judicial notice filed herewith, and such other oral and documentary
16 matter as may be presented at the time of the hearing.

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18 Dated: April 2, 2008

MICHAEL J. AGUIRRE, City Attorney

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20 By /s/ Joe Cordileone
21 Joe Cordileone
22 Senior Deputy City Attorney
23 Attorneys for Defendant City of San Diego
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